APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,252	01/17/2001	James Russell Godwin	5577-220	8043

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EXAMINER
PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
2154	

MAIL DATE	DELIVERY MODE
01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	09/764,252	GODWIN ET AL.
	Examiner	**Art Unit**	
	Ashok B. Patel	2154	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the first Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Please refer to continuation sheet..

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Continuation sheet:

1.   Response to the final office action dated 10/27/2007 <u>will not be entered</u> for the

following reasons:

2.   35 U.S.C. § 112, second paragraph (Claims 1, 3-9, 20, 22-28, 39, 41-47, 58-72)

Applicant's arguments:

"In view of the clarifying remarks herein, the applicants believe that, when

reading the claim 1 as a whole, the claim recitations are definite within the meaning of

35 U.S.C. § 112, second paragraph. Thus, the applicants request that the rejections to

claim 1 and the claims that depend there from are withdrawn.

Independent claims 20 and 39 were rejected under 35 U.S.C. § 112, second

paragraph based upon reasons similar to those used to reject claim 1. Accordingly, the

arguments set out in detail above, apply by analogy to claims 20 and 39. Thus, the

applicants request that the rejection to claims 20, 39 and the claims that depend there

from are withdrawn."

Examiner's response:

Applicant's arguments <u>include relating the claimed limitations to

specification Figures and descriptions</u>, however, it is the claims that define the claimed

invention, and it is claims, not specifications that are anticipated or unpatentable.

Constant v. Advanced Micro-Devices Inc., 7 USPQ2d 1064. Accordingly Examiner

maintains these rejections.

3.   35 U.S.C. § 102(e)

Applicant's arguments:

"Thus, the flow switch 205 explicitly does not participate in, and explicitly avoids endpoint network security processing of communications. Rather, the flow switch 205 passes the packets to the selected IP server in the cluster in such a way that decrypting and other endpoint network security processing is not performed at the flow switch."

"However, this neither teaches nor suggests performing endpoint network security processing. Rather, it teaches avoiding endpoint network security processing at a distributor."

"Accordingly, Bhaskaran does not teach or suggest routing both inbound and outbound communications with target hosts which are associated with an end-to-end secure network communication through the distribution processor...processing both inbound and outbound end-to-end secure network communications at the distribution processor so as to provide endpoint network security processing of communications as claimed."

Examiner's response:

Bhaskaran teaches at col. 2, line 66-col. 3, line 3, "There is thus a need for a system that not only allows for transmissions of encrypted data packets according to the IPSEC model, but also allows network administrators **to perform both server load balancing and IPSEC in their networks."**

With having this context, Bhaskaran teaches at col. 6, line 48-50, "Network owners can further **deploy IPSEC security mechanisms** transparently and **without fear of communications being broken**. Bhaskaran teaches, how **"without fear of communications being broken" in the preceding sentence in lines 44-47,** "Thus,

by **eliminating** the need to **recompute the checksum for each packet**, the network

flow switch of the present invention achieves better throughput than prior art devices."

The purpose of **recomputing the checksum for each packet** is explained by

Bhaskaran at preceding lines 36-38 of the same col., "CRC field 360 contains a

checksum correction code used to verify that packet 300 has been transmitted without

error."

This means Bhaskaran allows deploying IPSEC security mechanisms

transparently and without fear of communications being broken.

For Example, Bhaskaran teaches at col. 7, line 32-37, "Stage 435 performs an

optional load balancing operation to determine which of IP servers 210, 220, 230, 240or

250 packet 300 is to be routed to. The load balancing operation of stage 435 attempts

to divide packets to be processed among the IP servers according to the capacity and

the current utilization of each server.", Please note that flow switch is distributing

workload among the IP servers per packet basis, and as such, the flow switch has to

establish IPSEC tunnel with the selected IP servers to which it distributes the workload.

Also at col. 3, line 36-50, Bhaskaran teaches "Since the IP header is not

modified, the network flow switch of the present invention **operates on packets**

encoded according to any ISO layer 4 protocol and, unlike prior art server load

balancers, is not limited to TCP encoded packets. In addition, the network flow switch

can also handle re-routing, load balancing and fault tolerance of encrypted packets

transparently to both server and client. In some embodiments, load balancing is also

performed for outbound packets so as to route packets to the router with an optimal

workload. Thus, a method and apparatus are provided to <u>allow bi-directional clustering</u>

<u>for load balancing and fault tolerance in the inbound direction (i.e., client-router-server),</u>

<u>as well as in the outbound direction (i.e., server-router-client)."</u>

<u>Please also note that flow switch is distributing workload among the routers, the</u>

<u>flow switch has to establish IPSEC tunnel with the selected IP servers to which it</u>

<u>distributes the workload.</u>

<u>Thus Bhaskaran achieves "load balancing" and "deployment of IPSEC"</u>

<u>mechanism" simultaneously at the flow switch (distributor).</u>

4.   35 U.S.C. § 103

Applicant's arguments:

"As such, Schaffer neither teaches nor suggests as claimed: routing both

inbound and outbound communications ....communications."

Examiner's response:

Please refer to above explanation.